

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 22.2.2005

CORAM:

THE HONOURABLE MR.MARKANDEY KATJU, THE CHIEF JUSTICE

AND

THE HONOURABLE MR. JUSTICE D.MURUGESAN

W.P.No.43080 of 2002 and W.A. No.4101 of 2003

and

WVMP.No.1656 of 2003 & WAMP.6784 of 2003 & WAVMP.No.7150 of 2004

Tamilnadu State Transport
Corporation (Madurai Dn.III),
Nagercoil, Kanyakumari District,
rep. by its Managing Director

...Petitioner in WP/
Appellant in WA.

Vs.

1. The Presiding Officer,
Labour Court, Tirunelveli.

2. Devaraj

Respondents/
Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of writ of certiorari calling for the records in I.D. No.69 of 1993 on the file of the first respondent dated 30.04.2002 and quash the same as arbitrary and without jurisdiction.

Appeal under clause 15 of the Letters Patent against the order of this Court passed in WPMP. No.63448 of 2002 in W.P.No.43080 of 2002 dated 25.08.2003.

For Petitioner/ :: Mrs.Kala Ramesh
Appellant

For Respondent 2:: Mr.K.Ravichandra Babu

JUDGMENT

(Judgment of the Court was delivered by
The Hon'ble Chief Justice.)

The writ petition has been filed against the impugned award of the Labour Court dated 30.4.2002.

2. We have heard learned counsel for the parties and perused the records.

3. The second respondent was working as a conductor in the services of the petitioner Corporation. He was charge sheeted. An enquiry was held against him in which he was found guilty. All the charges were proved. The charges are mentioned in paragraph 6 of the award of the Labour Court dated 30.4.2002. On the basis of the charges he was dismissed from service.

4. The workman raised an industrial dispute, which was referred to the Labour Court, Tirunelveli, which by its award dated 30.4.2002 has considered the evidence and disagreed with the findings of the enquiry officer and has held that the charges are not proved.

5. It may be mentioned that prior to 1971 the Labour Court could not disagree with the finding of fact of the domestic enquiry officer in view of the decision of the Supreme Court in M/s.Indian Iron & Steel Company v. Their Workmen (AIR 1958 SC 130). However, the law was subsequently amended by section 11A of the Industrial Disputes Act and thereafter the Labour Court/Tribunal can sit in appeal over the findings of the enquiry officer.

6. In the present case the Labour Court has re-assessed/re-appreciated the findings and has differed with the findings of the enquiry officer.

7. In writ jurisdiction we cannot interfere with a finding of fact, unless it is based on no evidence. The Labour Court has held that the charges against the workman are not established and we cannot set aside its finding in writ jurisdiction. There is evidence to support the finding, but we cannot go into adequacy of evidence in writ jurisdiction, and we cannot sit as a Court of First Appeal to re-assess or re-appreciate the evidence.

8. A writ of certiorari lies when there is error of law apparent on the face of the record. It does not lie to interfere with findings of fact, unless based on no evidence. Thus there is no force in the writ petition and it is dismissed.

9. Since we have dismissed the writ petition itself, the writ appeal arising out of an interlocutory order in that writ petition has become infructuous and it is dismissed as such. No costs. Consequently WVMP No.1656/2003 and WAMP No.6784 of 2003 and WAVMP.No.7150 of 2004 are closed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Managing Director,
Tamilnadu State Transport Corporation (Madurai Dn.III),
Nagercoil, Kanyakumari District.
2. The Presiding Officer,
Labour Court, Tirunelveli.

One cc to Mr.N.Paul Vasanthakumar, Advocate SR.8067

one cc to Mr.P.Sukumar, Advocate SR.8164.

W.P.No.43080 of 2002 and
W.A. No. 4101 of 2003

KC [co]
MK

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